

January 9, 2006

Patrice Cooper
Executive Director-Rite Care
United Healthcare of New England
475 Kilvert Street, Suite 310
Warwick, RI 02886

Dear Patrice:

Effective January 1, 2006, the Medical Assistance Program will no longer be covering drugs for the treatment of sexual or erectile dysfunction. The federal government has passed legislation under Section 1903(i) of the Social Security Act, Section 104 of Public Law No. 103-91, prohibiting State Medical Assistance Programs from covering medications used for the treatment of erectile dysfunction (e.g. Viagra, Levitra, Cialis, Caverject, Muse, Edex, Yohimbine). The Act prohibits payment of these drugs unless such drugs are used to treat conditions other than sexual or erectile dysfunction and the Food and Drug Administration has approved these uses. Please see enclosed letter to all Medicaid Directors from the Centers for Medicare and Medicaid Services (CMS).

Upon receipt of this letter, please take all necessary operational steps (including notification to members who utilize these medications) to ensure these drugs are no longer covered for Rite Care members who do not meet the medical necessity criteria described above. If you have questions about this coverage change, please contact Robyn Hoffman at 401-462-0763.

Sincerely,

Tricia Leddy

Tricia Leddy
Administrator
Center for Child and Family Health

Enclosure

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations

SMDL #05-006

DEC 29 2005

Dear State Medicaid Director:

Section 1903(i) of the Social Security Act (the Act), as amended by section 104 of the Public Law No. 109-91, the QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005, prohibits Medicaid Federal financial participation (FFP) for drugs used for the treatment of sexual or erectile dysfunction, effective with respect to drugs dispensed on or after January 1, 2006.

With respect to drugs dispensed on or after January 1, 2006, the law eliminates Medicaid coverage of drugs used to treat sexual or erectile dysfunction, as set forth in section 1927(d)(2)(K) of the Act, unless such drugs are used to treat conditions other than sexual or erectile dysfunction and these uses have been approved by the Food and Drug Administration. Section 1903(i)(21) of the Act specifically precludes Medicaid FFP with respect to amounts expended for covered outpatient drugs after January 1, 2006, when used for the treatment of sexual or erectile dysfunction.

States should review their Medicaid State plans to determine whether they reference this category of drugs and submit a State Plan amendment if necessary, to be effective January 1, 2006.

If you have any questions regarding this letter, please contact Deirdre Duzor, Director of CMSO's Division of Pharmacy, at 410-786-4626.

Sincerely,

Dennis G. Smith

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cc:

CMS Regional Administrators

**CMS Associate Regional Administrators
for Medicaid and State Operations**

**Martha Roherry
Director, Health Policy Unit
American Public Human Services Association**

**Joy Wilson
Director, Health Committee
National Conference of State Legislatures**

**Matt Salo
Director of Health Legislation
National Governors Association**

**Jacalyn Bryan Carden
Director of Policy and Programs
Association of State and Territorial Health Officials**

**Sandy Bourne
Legislative Director
American Legislative Exchange Council**

**Lynne Flynn
Director for Health Policy
Council of State Governments**

January 5, 2006

Important Information about Your Drug Coverage

Dear Medical Assistant Recipient.

We are sending you this letter to let you know that starting January 1, 2006 the Medical Assistance Program will no longer be covering drugs for the treatment of sexual or erectile dysfunction. The Federal Government has passed legislation under Section 1903(i) of the Social Security Act, Section 104 of the Public Law No. 103-91, prohibiting State Medical Assistance Programs from covering medications used for the treatment of Erectile Dysfunction (ie. Viagra, Levitra, Cialis, Caverject, Muse, Edex, Yohimbine). The Act prohibits payment of these drugs unless such drugs are used to treat conditions other than sexual or erectile dysfunction and these uses have been approved by the Food and Drug Administration.

Our records show that you have a current Prior Authorization for one of these medications. Effective immediately, these prior authorizations will be cancelled and you will no longer be able to get prescriptions for these medications covered under your Medical Assistance Card. If you have any questions call the Center for Adult Health at 462-2183.

APPEAL RIGHTS:

If you ask for an appeal because you think the law is wrong, you do not have the right to a hearing regarding the change in the law. You have the right to request an appeal if you think the law does not apply to you or if you think that you need these drugs to treat a condition other than sexual or erectile dysfunction. If you want to appeal this action, please read the back of this letter.

You have the right to discuss this action further with an agency representative or to request an adjustment conference with the appropriate supervisor. If you have any questions regarding this notice, call an Agency representative at (401) 462- 2183. If you think we do not have the right facts about you, you also have the right to a hearing. A hearing must be filed within thirty (30) days from the date of the notice.

If you request a hearing you may represent yourself or be represented by someone else such as a lawyer, relative, or another person. Free legal help may be available by calling Rhode Island Legal Services at 274- 2652 (outside the Providence calling area, call toll free 1-800-662-5034).

EXCEPTION: If this action implements a hearing decision, you may not have the right to another hearing on this action. See the hearing decision letter for your right for judicial review in accordance with Rhode Island Law (42-35-1 et seq.)

TO REQUEST A HEARING:

All requests must be in writing. To request a hearing, complete Section I., the 'Statement of Complaint' on the enclosed REQUEST FOR A HEARING form, or else submit your complaint in writing. Briefly describe the Agency action you wish to appeal. You can fill out the form yourself, or with the help of the Agency representative if you need help in completing the form. The form is signed by the person to whom the notice is addressed or her/his representative.

Mail or bring the hearing request form to the office location printed on the first page of the notice. In order to receive a hearing, you must do so within the time periods specified above. You will be notified of the time and the place of the hearing. At the same time, you will also receive a statement of the Agency's position, an explanation of the policy on which the decision was based, and additional information about the hearing process.